

REMARKS

In view of the above amendments and following remarks, reconsideration of the objections and rejections contained in the Office Action of March 23, 2005 is respectfully requested.

In section 1 on page 2 of the Office Action, the Examiner withdrew claim 26 from consideration in view of what was considered to be a constructive election by original presentation of the apparatus claims. Without acquiescing to the Examiner's position, claim 26 has now been canceled.

With respect to the Examiner's objections in sections 2-3 on pages 2 and 3 of the Office Action, a new Consent of Assignee Statement is enclosed.

With respect to the Examiner's request for the original patent or a statement as to its loss or inaccessibility, the Examiner's attention is drawn to the fact that this requirement is no longer made in reissue applications. Please see the revision to 37 CFR 1.178(a) of September 2004. However, should such be necessary, Applicants in any case offer to surrender the original patent.

The Examiner rejected claims 1-25 in section 5 on page 3 of the Office Action as being an improper recapture of broadened claimed subject matter surrendered in the application for patent. This rejection is respectfully traversed on several different bases.

Firstly, prior claims 1-21 were the original unamended claims of issued patent 5,888,126. Accordingly, because they were allowed by the Examiner during prosecution and have not changed (prior to this amendment), the claims could not have constituted a recapture of broadened claimed subject matter surrendered in the application. Accordingly, withdrawal of the rejection with respect to claims 1-21 is respectfully requested.

The rejection as applied to claims 22-2. is respectfully traversed. First, it is noted that claim 22 has been amended to now include the recitation of "moving means for moving a plurality of portions of said abrasive cloth to be higher than another portion of said abrasive cloth." Furthermore, it is stated that these plurality of portions of the abrasive cloth are "individually and independently pressed against the wafer by air pressures." Accordingly, it may be seen that claim 22 has been

amended to address the Examiner's concerns as set forth in the three bulleted sections on page 4 of the Office Action. That is, a moving means is recited, so that a plurality of portions of the abrasive cloth are individually and independently pressed against the wafer by air pressures. Thus, similar limitations to those of concern to the Examiner have been added to claim 22.

The Examiner states that the original patent was allowed "because of the mechanical means which caused portions of the polishing cloth to project above or recess below other portions of the polishing cloth." Accordingly, this has now been reflected by the above amendments to claim 22.

Accordingly, reconsideration of the rejections of claims 1-25 as being impermissible recapture is respectfully requested.

Claims 1 and 2 are now rejected by the Examiner as being anticipated by JP '520. While this rejection will be addressed below, it is noted that these claims were allowed over the same reference during prosecution of the original patent.

In any case, amendments have been made above so as to clearly distinguish independent claim 1 over JP '520. Claim 1 has been amended to recite that the abrasive cloth has "actuatable regions individually and independently operable" so as to selectively form recesses.

JP '520 has recesses integrally formed by a single push pin plate 23. Thus it does not teach or suggest that the actuatable regions are individually and independently operable so as to selectively form recesses. For this reason, amended claim 1 clearly distinguishes over JP '520. Indication of such is respectfully requested.

In view of the above, it is respectfully submitted that all of the claims now pending in the present application clearly patentably distinguish over the prior art cited by the Examiner and clearly do not represent any impermissible recapture. Accordingly, all of the claims in this reissue application should clearly be in condition for allowance, and indication of such is requested.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact Applicants' undersigned representative.

Respectfully submitted,

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July 25, 2005